

Manitoba Legislature J.

Act

5.

W 445

LP
F5012
1900
C 21 M

CHAPTER 57.

An Act respecting the Taxation of the Earnings of Railroad Companies, for the Purpose of Supplementing the Revenues of the Crown in the Province of Manitoba.

[Assented to July 5th, 1900.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Manitoba, enacts as follows :

1. This Act may be cited as "The Railway Taxation Act."
2. The provisions of this Act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly or partly by railroad, being within the Province of Manitoba ; provided, however, that nothing in this Act shall apply to street railways, whatever the motive power thereof may be.
3. The expression " Railroad company " or " Company " when used in this Act shall mean every Railroad company owning or operating a railroad in the Province of Manitoba, whether the head office is situated in Manitoba or elsewhere, and which transacts business in Manitoba, and shall embrace and include every company operating a railroad in Manitoba, whether as an original enterprise or undertaking, or under a lease, contract or agreement or otherwise howsoever.
4. The expression " Railroad " when used in this Act shall include all tracks, bridges, switches, sidings, spurs, used or operated in connection with any railroad, and also the road in use by any company operating a railroad, whether owned or operated as an original enterprise or undertaking, or operated under a contract, agreement or lease or otherwise howsoever.

5. (1) In order to supplement the Revenue of the Crown in the Province of Manitoba every railroad company at present owning or operating, or which may hereafter own or operate, any line or lines of railroad within the said Province shall annually pay to the Crown in the Province a part or portion of the gross earnings of such railway companies in the Province of Manitoba as follows:—

In and for the year 1900, 1901 and 1902, two per cent. of the gross earnings of such companies.

In each and every year after the year 1902 such sums as may be determined by the Lieutenant-Governor-in-Council, not exceeding, however, three per cent. of the gross earnings of the companies.

(2) Both the company or companies owning the line or lines, or such part thereof, and the company or companies operating or working the said line or lines, or part or parts of a line or lines as aforesaid, shall jointly and severally be liable for the payment of such tax.

(3) The said tax shall, for the year 1900, be payable on the first day of August of said year, based on the gross earnings of each respective railroad company for the year 1899, and for the year thereafter succeeding the said year 1900 shall be payable on the first day of April, based on the gross earnings receipts for the year preceding the date of payment as aforesaid; provided, however, that for the year 1900 one-half of the gross earning tax for the year 1899 shall only be payable as aforesaid.

(4) At or before the time of payment of said tax each Railroad company shall deliver to the Provincial Treasurer a statement showing fully and completely the gross earnings of the line or lines or part or parts of line or lines of railroad in the Province owned or operated during the year, upon which the said tax is paid.

6. Such statement shall be verified by and under the oath of the President and Manager, or of the Manager and Vice-President, or by such person or persons connected with the company as the Treasurer may require, and shall be in accordance with the form in Schedule B hereto, or upon such other form as may be from time to time provided by the said Treasurer.

7. For the purpose of ascertaining the truth of any statement or statements made under and by virtue of the provisions of this Act, full power and authority is hereby vested in the Provincial Treasurer, with the approbation of the Lieutenant-Governor-in-Council, to examine under oath the officers and employees of the company making such statement or statements, and in such action the Treasurer shall have the same power to require the production of documents and enforce the attendance of witnesses, and to compel them

to give evidence as is vested in any court of law in civil cases.

8. Each Railway company which, and the Manager in the Province of any Railway company as aforesaid who, neglects to make the return provided for under Section 5 of this Act, at the time and in the manner therein provided, shall each be liable to a penalty of \$25 per day for each day during which default is made, and the company shall also be liable to pay a tax of double the amount for which it would have been liable under this Act, and any penalty or such double tax may be recovered with costs in any court of competent jurisdiction in an action brought in the name of the Treasurer aforesaid, to be tried by a Judge without jury.

9. In case of default in payment of any taxes imposed by this Act, the same may be levied and collected with costs of distress upon the goods and chattels of the Railway company liable therefor, under a warrant signed by the Treasurer of the Province, directed to the Sheriff of any Judicial District in which the company in arrear may have goods and chattels, and in such case the Sheriff shall realize the said taxes, or so much thereof as may be in arrear, and all costs by sale of such goods, or so much thereof as may be necessary to satisfy the said warrant and costs, or the said taxes or penalty and double tax provided by this Act, or both, may, at the option of the Treasurer, be sued for and recovered with costs in any court of competent jurisdiction in an action to be brought in the name of the Treasurer, and the action or suit shall be tried by a Judge without a jury.

10. For the purpose of further securing the payment of the taxes imposed by this Act, it is hereby declared that the Province shall have a lien therefor upon every railroad owned or operated therein, and upon all property, estate or effects of said companies whatsoever, personal or real, and the lien hereby created shall have and take precedence in favor of the Province over all demands, decrees and judgments against such company.

11. (1) If the Treasurer is not satisfied as to the correctness of a statement made and returned by a Railway company under the provisions of this Act, and he is confirmed in this view after due inquiry and investigation, and is of the opinion that the gross earnings returned in such statement should be increased, he may appoint, with the approval of the Lieutenant-Governor-in-Council, one or more competent persons possessing, in his opinion, adequate qualifications to determine and report the true gross earnings upon which, in his or their opinion, the taxes imposed in this Act should be paid, and the report or determination of the person or persons so appointed in the premises shall be final as to the

particulars mentioned in such report, and not subject to variation or be questioned in any manner whatsoever.

[2] If the gross earnings upon which the taxes imposed by this Act, and contained in the statement of a company as aforesaid, is increased the company shall pay the costs of the inquiry, but if the statement is found to be correct and the required information was duly and truthfully furnished the Treasurer may direct the costs to be paid by the Province.

[3] In case the report shall find that the statement understates the gross earnings on which the tax should be paid the company, besides paying the costs of the inquiry, shall pay as a tax such sum as shall be found payable under the report, with 50 per cent. added to the amount of the entire tax as the same would have been computed under the preceding sections, unless the Lieutenant-Governor-in-Council shall otherwise order.

[4] In the event of the person or persons appointed for the purposes provided for in this section reporting that the statement made by the company understates the gross earnings on which the tax should be paid, but that such understatement was not made with the intent and for the purpose of decreasing the amount of taxes to be paid, but was made in good faith and with no improper motive, the Lieutenant-Governor-in-Council may upon the recommendation of the Treasurer remit so much of the added percentage and so much of the costs as to him in his discretion may seem meet.

12. The Treasurer of the Province may refer to the Court of the Queen's Bench or a Judge thereof for hearing or consideration, or otherwise, any matter or thing contained in, or any question arising out of or under this Act which he thinks fit to so refer, and the Court or Judge shall thereupon hear or consider the same. All the provisions of Chapter 28 of the Revised Statutes of Manitoba shall *mutatis mutandis* be applicable to any such reference.

13. The taxes imposed by this Act shall form part of the Consolidated Revenue of the Province and any and all expenses incurred in carrying out this Act may from time to time be paid out of such revenue on the recommendation of the Provincial Treasurer.

14. The penalties under this Act may be recovered at the instance of the Treasurer of the Province by the consent of the Attorney-General thereof.

15. Any oath required to be taken under this Act may be taken before a commissioner for taking affidavits or a Notary Public.

16. In any action brought by the Treasurer under this Act it shall be sufficient if the action is brought by "The Treasurer of the Province of Manitoba" as plaintiff, and it shall not be necessary to name the Treasurer, and the action shall not abate by reason of a change in the person of the Treasurer, but the action may proceed as though no change had been made.

17. Nothing contained in this Act shall take away or lessen any exemption from taxation heretofore granted any railway company by or under any Act of the Legislature of Manitoba.

18. Every railroad company coming within and paying taxes under the provisions of this Act or any Act or Acts amending this Act and the property of every nature and kind of every such railroad company except the land subsidy to which such company is or may be entitled from the Dominion Government, and any land held by it for sale, shall during the continuance of this Act or any Act or Acts amending this Act, be free and exempt from all assessments and taxation of every nature and kind within the Province of Manitoba by whomsoever made or imposed, except such as are made and imposed under the provisions of this Act or any Act or Acts amending this Act, and no person or body corporate or politic, having power to make assessments or impose taxation of any kind shall during the continuance of this Act or any Act or Acts amending this Act make any assessments or impose any taxation of any kind of or upon any such railroad company or any property of such railroad company except the land subsidy to which such Company is or may be entitled from the Dominion Government and any land held by it for sale as aforesaid.

19. The provisions contained in this Act shall specifically be deemed to be subject to the provisions of section nine of Chapter 78 of the Revised Statutes of Manitoba.

20. The Lieutenant-Governor-in-Council may supplement the provisions of this Act with such other provisions, not inconsistent with those contained in this Act, as may be deemed necessary and in the public interest.

21. This Act shall come into force on the day it is assented to.

SCHEDULE A.

FORM OF STATEMENT TO BE GUARANTEED BY RAILROAD COMPANIES UNDER SECTION .

We, , of , in the Province of and of in the Province of each for ourselves make oath and say

- (1) That I, the said , am the President (or, as the case may be) and that I, the said am the Manager of (state the railroad) in the Province of Manitoba.
- (2) That we have a personal knowledge of the affairs of the said Railroad company.
- (3) That the gross earnings of the railroad owned or operated by the said company in the Province of Manitoba for the year ending the 31st day of December (state the year) was the sum of \$ (state full particulars, giving in the case of each line and branch line of railway owned or operated, the gross earnings thereof separately.)

Sworn before me at the
of in the
Province of this day of A.D. 19 }

CHAPTER 58.

An Act to amend an Act passed at the present Session of the Legislative Assembly entitled "An Act respecting the Taxation of the Earnings of Railroad Companies for the purpose of Supplementing the Revenue of the Crown in the Province of Manitoba."

[Assented to July 5th, 1900.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Manitoba, enacts as follows :

1. The "Railway Taxation Act" passed at the present session of the Legislative Assembly is hereby amended by adding thereto the following sections :

22. Nothing herein contained shall take away from any incorporated city any right or power which any incorporated city may now have of assessing and levying on the real property of any railroad company fronting or abutting on any street or place taxes for local improvements done in under or upon any such street or place according to the frontage of such real property so fronting or abutting on such street or place, or relieve any railway or telegraph company owning or operating a telegraph line or lines in the Province from the payment of the taxes imposed in that behalf under the provisions of "The Corporations Taxation Act."

23. Nothing in this Act contained shall affect any cause, suit, action or proceeding now pending.

2. This Act shall come into force on the day it is assented to.
